

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 21 September, 1977.*

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. , 1977.

An Act to amend the Poisons Act, 1966, so as to prohibit the cultivation of certain plants capable of being used for the purpose of producing drugs of addiction or prohibited drugs; to authorise the Director-General of Agriculture to destroy any such plants in certain circumstances; to increase the penalties for certain offences relating to drugs of addiction and prohibited drugs; and for other purposes.

BE

Poisons (Further Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 **1.** This Act may be cited as the "Poisons (Further Short title.
Amendment) Act, 1977".

2. This Act shall commence on such day as may be ap- Commence-
pointed by the Governor in respect thereof and as may be ment.
notified by proclamation published in the Gazette.

10 **3.** This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO THE POISONS ACT,
1966.

SCHEDULE 2.—AMENDMENTS TO THE POISONS ACT,
1966, BY WAY OF STATUTE LAW REVISION.

15 **4.** The Poisons Act, 1966, is amended in the manner set
forth in Schedules 1 and 2. Amendment of
Act No.
31,1966.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1.

Sec. 4.

AMENDMENTS TO THE POISONS ACT, 1966.

(1) (a) Section 2, matter relating to Part IV—

5 From the matter omit “AND PROHIBITED DRUGS
—ss. 20–33”, insert instead “, PROHIBITED
DRUGS AND PROHIBITED PLANTS—ss. 21–33C”

(b) Section 2, matter relating to Part IV, Division 1—
Omit “20”, insert instead “21”.

10 (c) Section 2, matter relating to Part IV, Division 3—
After the matter, insert :—

DIVISION 4.—*Prohibited Plants*—ss. 33A–33C.

(2) (a) Section 4 (1), definition of “Cultivate”—

After the definition of “Container”, insert :—

15 “Cultivate”, in relation to a prohibited plant,
includes grow, sow or scatter the seed
produced by, plant, nurture, tend or
harvest that prohibited plant.

(b) Section 4 (1), definition of “Indian hemp”—

20 After the definition of “Drug of addiction”,
insert :—

“Indian hemp” means—

(a) any plant or part of a plant of the
genus *Cannabis*;

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

5 (b) the resin, whether crude or purified, or any other extract obtained from any plant or part of a plant of the genus *Cannabis*; or

10 (c) any preparation containing any such resin or extract, by whatever name that plant, part, resin, extract or preparation may be called, and includes the achene or seed of any such plant but does not include any fibre of
15 any such plant or part from which the resin has been extracted or a prohibited plant of the genus *Cannabis*.

(c) Section 4 (1), definitions of “Opium” and “Owner”—

After the definition of “License”, insert :—

20 “Opium” means the coagulated juice obtained from the capsules of the opium poppy (*Papaver somniferum*).

25 “Owner”, in relation to any premises, includes the person entitled to receive the rent of the premises and the person to whom the rent of the premises is paid.

(d) Section 4 (1), definitions of “Premises” and “Prepared opium”—

After the definition of “Poisons List”, insert :—

30 “Premises” includes land or ship, aeroplane or other vehicle or vessel.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

5 “Prepared opium” means any preparation of
 opium in a form capable of being used
 for the purpose of smoking, and includes
 dross and any other residues remaining
 after opium has been smoked.

10 (e) Section 4 (1), definition of “Prohibited plant”—
 After the definition of “Prohibited drug”,
 insert :—

 “Prohibited plant” means—

15 (a) any growing plant of the genus
 Cannabis or Erythroxylon or of
 the species Papaver somniferum
 or Papaver orientale, also known
 as Papaver bracteatum; and

 (b) any growing plant of a description
 specified in a proclamation in
 force under subsection (3),

20 but does not include any growing plant,
 referred to in paragraph (a), of a descrip-
 tion prescribed for the purpose of this
 definition.

(f) Section 4 (1), definition of “Smoking”—

25 After the definition of “Sell”, insert :—

 “Smoking” includes inhaling fumes produced
 by heating or burning any substance.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—continued.

AMENDMENTS TO THE POISONS ACT, 1966—continued.

(g) Section 4 (1), definition of “Substance”—

5 After “any substance”, insert “but does not
include any prohibited plant”.

(h) Section 4 (3), (4)—

After section 4 (2), insert :—

10 (3) For the purposes of paragraph (b) of the
definition of “Prohibited plant” in subsection
15 (1), the Minister may, by proclamation pub-
lished in the Gazette, declare any description of
any plant that in his opinion is capable of being
used for the purpose of producing a drug of
addiction or a prohibited drug to be a prohibited
plant.

(4) The Minister may, in like manner, repeal,
alter or amend any proclamation made under
subsection (3).

(3) Section 5 (2)—

20 Omit “or drugs of addiction”, insert instead “, drugs
of addiction, prohibited drugs or prohibited plants”.

(4) Part IV, heading—

Omit “AND PROHIBITED DRUGS”, insert instead “, PRO-
HIBITED DRUGS AND PROHIBITED PLANTS”.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

(5) Section 20—

Omit the section.

5 (6) Section 21 (1A), (1B), (1C)—

After section 21 (1), insert :—

(1A) Subsection (1) does not apply in respect of the supply or possession by any person of Indian hemp in accordance with an authority granted under sub-

10

(1B) The Minister may grant to—

(a) any person who he is satisfied is engaged or intends to engage in scientific research or study an authority to have in his possession Indian hemp; or

15

(b) any person an authority to supply Indian hemp, or to have Indian hemp in his possession for the purpose of supply, to a person referred to in paragraph (a).

20

(1C) An authority under subsection (1B) may be granted subject to such conditions as the Minister thinks fit and may be revoked at any time by notice served on the person to whom it was granted or, if the Minister thinks fit, by notice published in the

25

Gazette.

(7) Part IV, Division 4—

After section 33, insert :—

DIVISION 4.—*Prohibited Plants.*

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

33A. (1) Any person who—

Offences
with
respect to
prohibited
plants.

- (a) cultivates any prohibited plant;
- 5 (b) supplies or otherwise deals in any prohibited plant;
- (c) has in his possession any prohibited plant;
- (d) being the occupier, owner or lessee of any premises, permits those premises to be used
10 for the purpose of the cultivation or supply of, or the dealing in, any prohibited plant; or
- (e) is concerned in the management of any premises referred to in paragraph (d),
- 15 shall be guilty of an offence against this Division.

(2) It is a sufficient defence to a prosecution of a person for an offence arising under subsection (1) if—

- 20 (a) he requests the court to take into account the defence available to him under this subsection; and
- (b) he adduces evidence which satisfies the court that, having regard to all of the
25 circumstances, including his conduct, in which the act constituting the offence was done or preparatory to the doing of that act, he did not know or suspect and could not reasonably be expected to have known or suspected that the prohibited plant was a
30 prohibited plant.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

5 (3) Where a defendant makes a request referred to in subsection (2) (a), evidence of any previous conviction of the defendant for any offence, being evidence which may tend to rebut the evidence referred to in subsection (2) (b), may be adduced by the prosecutor.

10 (4) Any prohibited plant in the order or disposition of any person shall be deemed to be in his possession.

33B. (1) In this section, "Director-General" means the Director-General of Agriculture.

Destruction of prohibited plants by Director-General of Agriculture.

15 (2) Upon information on oath by a member of the police force that he suspects or believes that any prohibited plants are on any premises, a stipendiary magistrate may, upon reasonable ground being shown in that information for the member of the police force so suspecting or believing, issue a warrant authorising the Director-General to exercise his powers under subsection (3) with respect to those premises.

25 (3) After the issue of any such warrant, the Director-General may himself or by any persons authorised by him enter any premises specified in the warrant and take such steps as he thinks necessary for the purpose of destroying any prohibited plants on those premises and preventing any regrowth of those plants and may subsequently from time to time again enter those premises and take steps for those purposes until he is satisfied that the prohibited plants have been completely destroyed and their regrowth effectively prevented.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

5 (4) The power conferred on the Director-General by subsection (3) extends not only in respect of prohibited plants on any premises specified in any such warrant but also in respect of any other plants on those premises the destruction of which cannot, in the opinion of the Director-General, be avoided in his exercise of that power.

10 (5) The Director-General or any other person is not liable in respect of any thing done bona fide in the exercise of the power conferred by subsection (3).

15 (6) Any costs or expenses incurred by the Director-General in the exercise of the power conferred by subsection (3) may be recovered by him, in any court of competent jurisdiction, as a debt from any person convicted of an offence arising under section 33A (1) in relation to the premises in respect
20 of which the Director-General exercised that power.

25 33C. (1) Every person guilty of an offence against Penalties. this Division shall in respect of each offence be liable to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 2 years, or to both such fine and imprisonment.

30 (2) If any person attempts to commit an offence against this Division, or solicits or incites another person to commit such an offence, he shall, without prejudice to any other liability, be liable to the same punishment as if he had committed an offence against this Division.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

5 (3) Any term of imprisonment imposed on any person by a court of summary jurisdiction in respect of the non-payment of a fine for an offence against this Division may be ordered to commence at the expiration of any term of imprisonment imposed on that person for the same offence in addition to the fine.

10 (8) (a) Section 43 (1) (a)—

After “prohibited drug”, insert “or prohibited plant”.

(b) Section 43 (1) (a)—

15 After “drug” where secondly occurring insert “or any premises on which there are any prohibited plants”.

(c) Section 43 (1) (c)—

After “drug”, insert “or of any prohibited plants”.

20 (d) Section 43 (1) (d), (e)—

Omit “or drug” wherever occurring, insert instead “, drug or plant”.

(e) Section 43 (2) (a), (b), (3) (a)—

25 Omit “or any prohibited drug” wherever occurring, insert instead “, any prohibited drug or any prohibited plant”.

(f) Section 43 (2) (a)—

After “premises”, insert “or any prohibited plant is on any premises”.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

(g) Section 43 (3), (4) (b)—

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Omit “or drug” wherever occurring, insert instead
“, drug or plant”.

(h) Section 43 (3A)—

After section 43 (3), insert :—

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(3A) The power conferred by subsection (1)
(e) or (2) to seize any substance, drug or plant
includes a power to remove it from the premises
on which it was seized.

(9) (a) Section 45A (1) (b)—

Omit “section; and”, insert instead “section;”.

(b) Section 45A (1) (c)—

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Omit “subsection (1) of section 32.”, insert
instead “section 32 (1); and”.

(c) Section 45A (1) (d)—

After section 45A (1) (c), insert :—

(d) any offence arising under section 33A.

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(d) Section 45A (3), (3A)—

Omit section 45A (3), insert instead :—

(3) A person convicted on indictment of an
offence to which this section applies shall be
liable—

25

(a) except as provided in paragraph (b),
to a fine not exceeding \$50,000 or to
imprisonment for a term not exceeding
15 years, or to both such fine and
imprisonment; or

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

- 5 (b) where the offence relates only to Indian hemp in leaf form, to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or to both such fine and imprisonment.

(3A) The reference in subsection (3) (b) to Indian hemp in leaf form is a reference to—

- 10 (a) Indian hemp which does not contain more than 3 per centum by weight, determined in the prescribed manner, of tetrahydrocannabinol; or
- 15 (b) a prohibited plant of the genus Cannabis.

SCHEDULE 2.

Sec. 4.

AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION.

- (1) (a) Section 3 (2)—
- 20 Omit “as amended by subsequent Acts.”
- (b) Section 3 (3)—
- Omit “Poisons Act, 1952–1965,” insert instead
“Poisons Act, 1952.”

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

- (2) (a) Section 4 (1), definition of "Dentist"—
5 Omit ", as amended by subsequent Acts".
- (b) Section 4 (1), definition of "Label"—
Omit "addiction; and "labelled" has a corresponding interpretation.", insert instead "addiction."
- 10 (c) Section 4 (1), definition of "Pharmacist"—
Omit ", as amended by subsequent Acts".
- (d) Section 4 (1), definition of "Pharmacy trainee"—
(i) Omit "paragraph (c) of subsection (1)", insert instead "subsection (1) (c)".
15 (ii) Omit "paragraph (d) of section 15,", insert instead "section 15 (d),".
(iii) Omit "paragraph (a) of section 16", insert instead "section 16 (a)".
- (e) Section 4 (1), definition of "Veterinary surgeon"—
20 Omit ", as amended by subsequent Acts".
- (3) (a) Section 5 (1) (a)—
Omit ", as amended by subsequent Acts".
- (b) Section 5 (1) (b)—
Omit ", as amended by subsequent Acts".

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

- (4) (a) Section 6 (3)—
5 Omit “paragraph (a) of subsection (2)”, insert
instead “subsection (2) (a)”.
- (b) Section 6 (4)—
Omit “paragraph (b) of subsection (2)”, insert
instead “subsection (2) (b)”.
- 10 (c) Section 6 (9)—
Omit “subparagraph (v) of paragraph (g) of
subsection (2).”, insert instead “subsection (2)
(g) (v).”.
- (d) Section 6 (10) (c)—
15 Omit “, as amended by subsequent Acts”.
- (e) Section 6 (13)—
Omit “as amended by subsequent Acts.”.
- (5) Section 12 (1)—
20 Omit “subsection (2) of section 11.”, insert instead
“section 11 (2).”.
- (6) Section 13 (1)—
Omit “subsection (2) of section 11.”, insert instead
“section 11 (2).”.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

- (7) Section 14 (3)—
- 5 Omit “paragraph (a) of subsection (1)”, insert
instead “subsection (1) (a)”.
- (8) Section 16 (1) (c)—
- Omit “paragraph (b) of subsection (1) of section
19;”, insert instead “section 19 (1) (b);”.
- 10 (9) Section 18—
- (i) Omit “eight hundred dollars,”, insert instead
“\$800,”.
- (ii) Omit “twenty dollars”, insert instead “\$20”.
- (10) Section 18A (1)—
- 15 Omit “two thousand dollars”, insert instead “\$2,000”.
- (11) (a) Section 19 (1)—
- Omit “Paragraph (b) of subsection (1) of
section 9”, insert instead “Section 9 (1) (b)”.
- (b) Section 19 (1A)—
- 20 Omit “paragraph (b) of subsection (1)”, insert
instead “subsection (1) (b)”.
- (c) Section 19 (1B)—
- Omit “paragraph (b) of subsection (1),”, insert
instead “subsection (1) (b),”.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

- (d) Section 19 (2)—
- 5 Omit “Subsection (1) of section 16”, insert
 instead “Section 16 (1)”.
- (12) (a) Section 24 (3) (a)—
- Omit “, as amended by subsequent Acts”.
- (b) Section 24 (3) (b)—
- 10 Omit “as amended by subsequent Acts,”.
- (13) (a) Section 26 (1)—
- Omit “two thousand dollars or to imprisonment
 with or without hard labour”, insert instead
 “\$2,000 or to imprisonment”.
- 15 (b) Section 26 (3)—
- Omit “one hundred dollars,”, insert instead
 “\$100,”.
- (14) Section 30 (4)—
- 20 Omit “subsection (2) of section 29”, insert instead
 “section 29 (2)”.
- (15) Section 33 (1)—
- Omit “two thousand dollars or to imprisonment with
 or without hard labour”, insert instead “\$2,000 or to
 imprisonment”.

Poisons (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

(16) Section 36 (2)—

- 5 (i) Omit “two hundred dollars”, insert instead
 “\$200”.
 (ii) Omit “twenty dollars”, insert instead “\$20”.

(17) Section 44—

Omit “two hundred dollars”, insert instead “\$200”.

10 (18) (a) Section 45A (1) (a)—

Omit “subsection (1) of section 21”, insert
instead “section 21 (1)”.

(b) Section 45A (1) (b)—

- 15 Omit “subsection (2A) of that section”, insert
 instead “section 21 (2A)”.

POISONS (FURTHER AMENDMENT) BILL, 1977

No. , 1977.

A BILL FOR

An Act to amend the Poisons Act, 1966, so as to prohibit the cultivation of certain plants capable of being used for the purpose of producing drugs of addiction or prohibited drugs; to authorise the Director-General of Agriculture to destroy any such plants in certain circumstances; to increase the penalties for certain offences relating to drugs of addiction and prohibited drugs; and for other purposes.

[MR K. J. STEWART—24 *August*, 1977.]

BE

Poisons (Further Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 **1.** This Act may be cited as the "Poisons (Further Short title.
Amendment) Act, 1977".

2. This Act shall commence on such day as may be ap- Commence-
pointed by the Governor in respect thereof and as may be ment.
notified by proclamation published in the Gazette.

10 **3.** This Act contains the following Schedules :— Schedules.

**SCHEDULE 1.—AMENDMENTS TO THE POISONS ACT,
1966.**

**SCHEDULE 2.—AMENDMENTS TO THE POISONS ACT,
1966, BY WAY OF STATUTE LAW REVISION.**

15 **4.** The Poisons Act, 1966, is amended in the manner set Amend-
forth in Schedules 1 and 2. ment of
Act No.
31,1966.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1.

Sec. 4.

AMENDMENTS TO THE POISONS ACT, 1966.

(1) (a) Section 2, matter relating to Part IV—

5 From the matter omit “AND PROHIBITED DRUGS
—ss. 20–33”, insert instead “, PROHIBITED
DRUGS AND PROHIBITED PLANTS—ss. 21–33C”

(b) Section 2, matter relating to Part IV, Division 1—
Omit “20”, insert instead “21”.

10 (c) Section 2, matter relating to Part IV, Division 3—
After the matter, insert :—

DIVISION 4.—*Prohibited Plants*—ss. 33A–33C.

(2) (a) Section 4 (1), definition of “Cultivate”—

After the definition of “Container”, insert :—

15 “Cultivate”, in relation to a prohibited plant,
includes grow, sow or scatter the seed
produced by, plant, nurture, tend or
harvest that prohibited plant.

(b) Section 4 (1), definition of “Indian hemp”—

20 After the definition of “Drug of addiction”,
insert :—

“Indian hemp” means—

(a) any plant or part of a plant of the
genus *Cannabis*;

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

5 (b) the resin, whether crude or purified, or any other extract obtained from any plant or part of a plant of the genus *Cannabis*; or

10 (c) any preparation containing any such resin or extract, by whatever name that plant, part, resin, extract or preparation may be called, and includes the achene or seed of any such plant but does not include any fibre of
15 any such plant or part from which the resin has been extracted or a prohibited plant of the genus *Cannabis*.

(c) Section 4 (1), definitions of “Opium” and “Owner”—

After the definition of “License”, insert :—

20 “Opium” means the coagulated juice obtained from the capsules of the opium poppy (*Papaver somniferum*).

25 “Owner”, in relation to any premises, includes the person entitled to receive the rent of the premises and the person to whom the rent of the premises is paid.

(d) Section 4 (1), definitions of “Premises” and “Prepared opium”—

After the definition of “Poisons List”, insert :—

30 “Premises” includes land or ship, aeroplane or other vehicle or vessel.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

5 “Prepared opium” means any preparation of
 opium in a form capable of being used
 for the purpose of smoking, and includes
 dross and any other residues remaining
 after opium has been smoked.

10 (e) Section 4 (1), definition of “Prohibited plant”—
 After the definition of “Prohibited drug”,
 insert :—

 “Prohibited plant” means—

15 (a) any growing plant of the genus
 Cannabis or Erythroxylon or of
 the species *Papaver somniferum*
 or *Papaver orientale*, also known
 as *Papaver bracteatum*; and

 (b) any growing plant of a description
 specified in a proclamation in
 force under subsection (3),

20 but does not include any growing plant,
 referred to in paragraph (a), of a descrip-
 tion prescribed for the purpose of this
 definition.

 (f) Section 4 (1), definition of “Smoking”—

25 After the definition of “Sell”, insert :—

 “Smoking” includes inhaling fumes produced
 by heating or burning any substance.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

(g) Section 4 (1), definition of "Substance"—

5 After "any substance", insert "but does not
include any prohibited plant".

(h) Section 4 (3), (4)—

After section 4 (2), insert :—

10 (3) For the purposes of paragraph (b) of the
definition of "Prohibited plant" in subsection
(1), the Minister may, by proclamation pub-
lished in the Gazette, declare any description of
any plant that in his opinion is capable of being
used for the purpose of producing a drug of
addiction or a prohibited drug to be a prohibited
15 plant.

(4) The Minister may, in like manner, repeal,
alter or amend any proclamation made under
subsection (3).

(3) Section 5 (2)—

20 Omit "or drugs of addiction", insert instead " , drugs
of addiction, prohibited drugs or prohibited plants".

(4) Part IV, heading—

Omit "AND PROHIBITED DRUGS", insert instead " , PRO-
HIBITED DRUGS AND PROHIBITED PLANTS".

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

(5) Section 20—

Omit the section.

5 (6) Section 21 (1A), (1B), (1C)—

After section 21 (1), insert :—

(1A) Subsection (1) does not apply in respect of the supply or possession by any person of Indian hemp in accordance with an authority granted under sub-

10

(1B) The Minister may grant to—

(a) any person who he is satisfied is engaged or intends to engage in scientific research or study an authority to have in his possession Indian hemp; or

15

(b) any person an authority to supply Indian hemp, or to have Indian hemp in his possession for the purpose of supply, to a person referred to in paragraph (a).

(1C) An authority under subsection (1B) may be granted subject to such conditions as the Minister thinks fit and may be revoked at any time by notice served on the person to whom it was granted or, if the Minister thinks fit, by notice published in the

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25

(7) Part IV, Division 4—

After section 33, insert :—

DIVISION 4.—*Prohibited Plants.*

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

- 33A. (1) Any person who—
- (a) cultivates any prohibited plant;
- 5 (b) supplies or otherwise deals in any prohibited plant;
- (c) has in his possession any prohibited plant;
- (d) being the occupier, owner or lessee of any premises, permits those premises to be used for the purpose of the cultivation or supply of, or the dealing in, any prohibited plant; or
- 10 (e) is concerned in the management of any premises referred to in paragraph (d),
- 15 shall be guilty of an offence against this Division.
- (2) It is a sufficient defence to a prosecution of a person for an offence arising under subsection (1) if—
- (a) he requests the court to take into account the defence available to him under this subsection; and
- 20 (b) he adduces evidence which satisfies the court that, having regard to all of the circumstances, including his conduct, in which the act constituting the offence was done or preparatory to the doing of that act, he did not know or suspect and could not reasonably be expected to have known or suspected that the prohibited plant was a
- 25 prohibited plant.
- 30

Offences
with
respect to
prohibited
plants.

*Poisons (Further Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

5 (3) Where a defendant makes a request referred to in subsection (2) (a), evidence of any previous conviction of the defendant for any offence, being evidence which may tend to rebut the evidence referred to in subsection (2) (b), may be adduced by the prosecutor.

10 (4) Any prohibited plant in the order or disposition of any person shall be deemed to be in his possession.

33B. (1) In this section, "Director-General" means the Director-General of Agriculture.

Destruction
of prohibited
plants by
Director-
General of
Agriculture.

15 (2) Upon information on oath by a member of the police force that he suspects or believes that any prohibited plants are on any premises, a stipendiary magistrate may, upon reasonable ground being shown in that information for the member of the police force so suspecting or believing, issue a
20 warrant authorising the Director-General to exercise his powers under subsection (3) with respect to those premises.

25 (3) After the issue of any such warrant, the Director-General may himself or by any persons authorised by him enter any premises specified in the warrant and take such steps as he thinks necessary for the purpose of destroying any prohibited plants on those premises and preventing any regrowth of those plants and may subsequently from time to time
30 again enter those premises and take steps for those purposes until he is satisfied that the prohibited plants have been completely destroyed and their regrowth effectively prevented.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

5 (4) The power conferred on the Director-General by subsection (3) extends not only in respect of prohibited plants on any premises specified in any such warrant but also in respect of any other plants on those premises the destruction of which cannot, in the opinion of the Director-General, be avoided in his exercise of that power.

10 (5) The Director-General or any other person is not liable in respect of any thing done bona fide in the exercise of the power conferred by subsection (3).

15 (6) Any costs or expenses incurred by the Director-General in the exercise of the power conferred by subsection (3) may be recovered by him, in any court of competent jurisdiction, as a debt from any person convicted of an offence arising under section 33A (1) in relation to the premises in respect
20 of which the Director-General exercised that power.

25 33c. (1) Every person guilty of an offence against Penalties. this Division shall in respect of each offence be liable to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 2 years, or to both such fine and imprisonment.

30 (2) If any person attempts to commit an offence against this Division, or solicits or incites another person to commit such an offence, he shall, without prejudice to any other liability, be liable to the same punishment as if he had committed an offence against this Division.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE POISONS ACT, 1966—continued.**

5 (3) Any term of imprisonment imposed on any person by a court of summary jurisdiction in respect of the non-payment of a fine for an offence against this Division may be ordered to commence at the expiration of any term of imprisonment imposed on that person for the same offence in addition to the fine.

10 (8) (a) Section 43 (1) (a)—

After “prohibited drug”, insert “or prohibited plant”.

(b) Section 43 (1) (a)—

15 After “drug” where secondly occurring insert “or any premises on which there are any prohibited plants”.

(c) Section 43 (1) (c)—

After “drug”, insert “or of any prohibited plants”.

20 (d) Section 43 (1) (d), (e)—

Omit “or drug” wherever occurring, insert instead “, drug or plant”.

(e) Section 43 (2) (a), (b), (3) (a)—

25 Omit “or any prohibited drug” wherever occurring, insert instead “, any prohibited drug or any prohibited plant”.

(f) Section 43 (2) (a)—

After “premises”, insert “or any prohibited plant is on any premises”.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—continued.

AMENDMENTS TO THE POISONS ACT, 1966—continued.

(g) Section 43 (3), (4) (b)—

5 Omit “or drug” wherever occurring, insert instead
“, drug or plant”.

(h) Section 43 (3A)—

After section 43 (3), insert :—

10 (3A) The power conferred by subsection (1)
(e) or (2) to seize any substance, drug or plant
includes a power to remove it from the premises
on which it was seized.

(9) (a) Section 45A (1) (b)—

Omit “section; and”, insert instead “section;”.

(b) Section 45A (1) (c)—

15 Omit “subsection (1) of section 32.”, insert
instead “section 32 (1); and”.

(c) Section 45A (1) (d)—

After section 45A (1) (c), insert :—

(d) any offence arising under section 33A.

20 (d) Section 45A (3), (3A)—

Omit section 45A (3), insert instead :—

(3) A person convicted on indictment of an
offence to which this section applies shall be
liable—

25 (a) except as provided in paragraph (b),
to a fine not exceeding \$50,000 or to
imprisonment for a term not exceeding
15 years, or to both such fine and
imprisonment; or

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

- 5 (b) where the offence relates only to Indian hemp in leaf form, to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or to both such fine and imprisonment.

(3A) The reference in subsection (3) (b) to Indian hemp in leaf form is a reference to—

- 10 (a) Indian hemp which does not contain more than 3 per centum by weight, determined in the prescribed manner, of tetrahydrocannabinol; or
- 15 (b) a prohibited plant of the genus Cannabis.

SCHEDULE 2.

Sec. 4.

AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION.

- (1) (a) Section 3 (2)—
- 20 Omit “as amended by subsequent Acts,”.
- (b) Section 3 (3)—
- Omit “Poisons Act, 1952–1965,” insert instead
“Poisons Act, 1952,”.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

- 5 (2) (a) Section 4 (1), definition of "Dentist"—
Omit " , as amended by subsequent Acts".
- (b) Section 4 (1), definition of "Label"—
Omit "addiction; and "labelled" has a corresponding interpretation.", insert instead "addiction."
- 10 (c) Section 4 (1), definition of "Pharmacist"—
Omit " , as amended by subsequent Acts".
- (d) Section 4 (1), definition of "Pharmacy trainee"—
(i) Omit "paragraph (c) of subsection (1)", insert instead "subsection (1) (c)".
(ii) Omit "paragraph (d) of section 15," , insert instead "section 15 (d)," .
(iii) Omit "paragraph (a) of section 16", insert instead "section 16 (a)".
- 15 (e) Section 4 (1), definition of "Veterinary surgeon"—
20 Omit " , as amended by subsequent Acts".
- (3) (a) Section 5 (1) (a)—
Omit " , as amended by subsequent Acts".
- (b) Section 5 (1) (b)—
Omit " , as amended by subsequent Acts".

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

- (4) (a) Section 6 (3)—
5 Omit “paragraph (a) of subsection (2)”, insert
instead “subsection (2) (a)”.
- (b) Section 6 (4)—
Omit “paragraph (b) of subsection (2)”, insert
instead “subsection (2) (b)”.
- 10 (c) Section 6 (9)—
Omit “subparagraph (v) of paragraph (g) of
subsection (2),”, insert instead “subsection (2)
(g) (v),”.
- (d) Section 6 (10) (c)—
15 Omit “, as amended by subsequent Acts”.
- (e) Section 6 (13)—
Omit “as amended by subsequent Acts,”.
- (5) Section 12 (1)—
20 Omit “subsection (2) of section 11.”, insert instead
“section 11 (2).”.
- (6) Section 13 (1)—
Omit “subsection (2) of section 11.”, insert instead
“section 11 (2).”.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

(7) Section 14 (3)—

- 5 Omit “paragraph (a) of subsection (1)”, insert
instead “subsection (1) (a)”.

(8) Section 16 (1) (c)—

Omit “paragraph (b) of subsection (1) of section
19;”, insert instead “section 19 (1) (b);”.

10 (9) Section 18—

- (i) Omit “eight hundred dollars,”, insert instead
“\$800,”.
(ii) Omit “twenty dollars”, insert instead “\$20”.

(10) Section 18A (1)—

- 15 Omit “two thousand dollars”, insert instead “\$2,000”.

(11) (a) Section 19 (1)—

Omit “Paragraph (b) of subsection (1) of
section 9”, insert instead “Section 9 (1) (b)”.

(b) Section 19 (1A)—

- 20 Omit “paragraph (b) of subsection (1)”, insert
instead “subsection (1) (b)”.

(c) Section 19 (1B)—

Omit “paragraph (b) of subsection (1),”, insert
instead “subsection (1) (b),”.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

(d) Section 19 (2)—

- 5 Omit "Subsection (1) of section 16", insert
 instead "Section 16 (1)".

(12) (a) Section 24 (3) (a)—

Omit "as amended by subsequent Acts".

(b) Section 24 (3) (b)—

- 10 Omit "as amended by subsequent Acts,".

(13) (a) Section 26 (1)—

Omit "two thousand dollars or to imprisonment
with or without hard labour", insert instead
"\$2,000 or to imprisonment".

15 (b) Section 26 (3)—

Omit "one hundred dollars," insert instead
"\$100,".

(14) Section 30 (4)—

- 20 Omit "subsection (2) of section 29", insert instead
 "section 29 (2)".

(15) Section 33 (1)—

Omit "two thousand dollars or to imprisonment with
or without hard labour", insert instead "\$2,000 or to
imprisonment".

Poisons (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

(16) Section 36 (2)—

- 5 (i) Omit “two hundred dollars”, insert instead
 “\$200”.
 (ii) Omit “twenty dollars”, insert instead “\$20”.

(17) Section 44—

Omit “two hundred dollars”, insert instead “\$200”.

10 (18) (a) Section 45A (1) (a)—

Omit “subsection (1) of section 21”, insert
instead “section 21 (1)”.

(b) Section 45A (1) (b)—

- 15 Omit “subsection (2A) of that section”, insert
 instead “section 21 (2A)”.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977
[24c]

POISONS (FURTHER AMENDMENT) BILL, 1977

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

THE objects of this Bill are—

- (a) to define the expression, "prohibited plant" as meaning any growing plant of the genus *Cannabis* (Indian hemp) or *Erythroxylon* (coca bush) or of the species *Papaver somniferum* (opium poppy) or *Papaver orientale*, also known as *Papaver bracteatum*, or any growing plant proclaimed for the purpose of the definition (Schedule 1 (2) (e));
- (b) to make it an offence for any person—
 - (i) to cultivate, supply, deal in or have in his possession any prohibited plant;
 - (ii) if he is the occupier, owner or lessee of any premises, to permit those premises to be used for the purpose of the cultivation or supply of, or the dealing in, any prohibited plant; or
 - (iii) to be concerned in the management of any premises referred to in subparagraph (ii) (Schedule 1 (7)—proposed section 33A);
- (c) to empower the Director-General of Agriculture, if authorised to do so by a warrant issued by a stipendiary magistrate, to enter any premises and to destroy any prohibited plants thereon (Schedule 1 (7)—proposed section 33B);
- (d) to impose a penalty recoverable summarily of \$2,000 or 2 years' imprisonment or both for an offence referred to in paragraph (b) (Schedule 1 (7)—proposed section 33c);
- (e) to extend the powers of entry and search conferred by section 43 of the Poisons Act, 1966, so that they will apply with respect to prohibited plants (Schedule 1 (8));
- (f) to increase the penalties for the indictable offences of supplying drugs of addiction or prohibited drugs and to impose a penalty recoverable on indictment for an offence referred to in paragraph (b) so that the penalties will be a fine of \$50,000 or imprisonment for 15 years or both, except in the case of the supply of Indian hemp in leaf form or of an offence referred to in paragraph (b) relating to the prohibited plant of the genus *Cannabis*, in either of which cases the penalty will be a fine of \$25,000 or imprisonment for 10 years or both (Schedule 1 (9));
- (g) to empower the Minister to grant authorities to persons to supply or to have in possession, or both to supply and have in possession, Indian hemp for the purpose of scientific research or study (Schedule 1 (6)); and
- (h) to make other provisions of a minor or ancillary nature.

REPORT OF THE COMMISSIONER OF THE GENERAL LAND OFFICE FOR THE YEAR 1894

Presented to the Senate and House of Representatives
at their first session, December 2, 1895

WASHINGTON: GOVERNMENT PRINTING OFFICE:
1896

The following report of the Commissioner of the General Land Office for the year 1894, is submitted to the Senate and House of Representatives, in accordance with the provisions of the Act of March 3, 1879, (22 Stat. 495), and the Act of March 3, 1891, (26 Stat. 1095), and the Act of March 3, 1893, (27 Stat. 424).

The report is divided into two parts, the first of which contains a general statement of the business of the office, and the second of which contains a detailed statement of the business of the office, as conducted during the year 1894.

The first part of the report contains a general statement of the business of the office, and the second part contains a detailed statement of the business of the office, as conducted during the year 1894.

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PROOF

POISONS (FURTHER AMENDMENT) BILL, 1977

No. , 1977.

A BILL FOR

An Act to amend the Poisons Act, 1966, so as to prohibit the cultivation of certain plants capable of being used for the purpose of producing drugs of addiction or prohibited drugs; to authorise the Director-General of Agriculture to destroy any such plants in certain circumstances; to increase the penalties for certain offences relating to drugs of addiction and prohibited drugs; and for other purposes.

[MR K. J. STEWART—24 *August*, 1977.]

BE

Poisons (Further Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 **1.** This Act may be cited as the "Poisons (Further Short title.
Amendment) Act, 1977".

2. This Act shall commence on such day as may be ap- Commence-
pointed by the Governor in respect thereof and as may be ment.
notified by proclamation published in the Gazette.

10 **3.** This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO THE POISONS ACT,
1966.

SCHEDULE 2.—AMENDMENTS TO THE POISONS ACT,
1966, BY WAY OF STATUTE LAW REVISION.

15 **4.** The Poisons Act, 1966, is amended in the manner set
forth in Schedules 1 and 2. Amend-
ment of
Act No.
31,1966.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1.

Sec. 4.

AMENDMENTS TO THE POISONS ACT, 1966.

(1) (a) Section 2, matter relating to Part IV—

5 From the matter omit “AND PROHIBITED DRUGS
—ss. 20–33”, insert instead “, PROHIBITED
DRUGS AND PROHIBITED PLANTS—ss. 21–33C”

(b) Section 2, matter relating to Part IV, Division 1—
Omit “20”, insert instead “21”.

10 (c) Section 2, matter relating to Part IV, Division 3—
After the matter, insert :—

DIVISION 4.—*Prohibited Plants*—ss. 33A–33C.

(2) (a) Section 4 (1), definition of “Cultivate”—

After the definition of “Container”, insert :—

15 “Cultivate”, in relation to a prohibited plant,
includes grow, sow or scatter the seed
produced by, plant, nurture, tend or
harvest that prohibited plant.

(b) Section 4 (1), definition of “Indian hemp”—

20 After the definition of “Drug of addiction”,
insert :—

“Indian hemp” means—

(a) any plant or part of a plant of the
genus *Cannabis*;

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

5 (b) the resin, whether crude or purified, or any other extract obtained from any plant or part of a plant of the genus *Cannabis*; or

10 (c) any preparation containing any such resin or extract,
by whatever name that plant, part, resin, extract or preparation may be called, and includes the achene or seed of any such plant but does not include any fibre of
15 any such plant or part from which the resin has been extracted or a prohibited plant of the genus *Cannabis*.

(c) Section 4 (1), definitions of “Opium” and “Owner”—

After the definition of “License”, insert :—

20 “Opium” means the coagulated juice obtained from the capsules of the opium poppy (*Papaver somniferum*).

25 “Owner”, in relation to any premises, includes the person entitled to receive the rent of the premises and the person to whom the rent of the premises is paid.

(d) Section 4 (1), definitions of “Premises” and “Prepared opium”—

After the definition of “Poisons List”, insert :—

30 “Premises” includes land or ship, aeroplane or other vehicle or vessel.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

5 “Prepared opium” means any preparation of
 opium in a form capable of being used
 for the purpose of smoking, and includes
 dross and any other residues remaining
 after opium has been smoked.

10 (e) Section 4 (1), definition of “Prohibited plant”—
 After the definition of “Prohibited drug”,
 insert :—

 “Prohibited plant” means—

15 (a) any growing plant of the genus
 Cannabis or Erythroxylon or of
 the species Papaver somniferum
 or Papaver orientale, also known
 as Papaver bracteatum; and

 (b) any growing plant of a description
 specified in a proclamation in
 force under subsection (3),

20 but does not include any growing plant,
 referred to in paragraph (a), of a descrip-
 tion prescribed for the purpose of this
 definition.

(f) Section 4 (1), definition of “Smoking”—

25 After the definition of “Sell”, insert :—

 “Smoking” includes inhaling fumes produced
 by heating or burning any substance.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

(g) Section 4 (1), definition of "Substance"—

5 After "any substance", insert "but does not
include any prohibited plant".

(h) Section 4 (3), (4)—

After section 4 (2), insert :—

10 (3) For the purposes of paragraph (b) of the
definition of "Prohibited plant" in subsection
15 (1), the Minister may, by proclamation published in the Gazette, declare any description of
any plant that in his opinion is capable of being
used for the purpose of producing a drug of
addiction or a prohibited drug to be a prohibited
plant.

(4) The Minister may, in like manner, repeal,
alter or amend any proclamation made under
subsection (3).

(3) Section 5 (2)—

20 Omit "or drugs of addiction", insert instead " , drugs
of addiction, prohibited drugs or prohibited plants".

(4) Part IV, heading—

Omit "AND PROHIBITED DRUGS", insert instead " , PRO-
HIBITED DRUGS AND PROHIBITED PLANTS".

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

(5) Section 20—

Omit the section.

5 (6) Section 21 (1A), (1B), (1C)—

After section 21 (1), insert :—

(1A) Subsection (1) does not apply in respect of the supply or possession by any person of Indian hemp in accordance with an authority granted under sub-
10 section (1B).

(1B) The Minister may grant to—

(a) any person who he is satisfied is engaged or intends to engage in scientific research or study an authority to have in his possession
15 Indian hemp; or

(b) any person an authority to supply Indian hemp, or to have Indian hemp in his possession for the purpose of supply, to a person referred to in paragraph (a).

20 (1C) An authority under subsection (1B) may be granted subject to such conditions as the Minister thinks fit and may be revoked at any time by notice served on the person to whom it was granted or, if the Minister thinks fit, by notice published in the
25 Gazette.

(7) Part IV, Division 4—

After section 33, insert :—

DIVISION 4.—*Prohibited Plants.*

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—continued.

AMENDMENTS TO THE POISONS ACT, 1966—continued.

- 33A. (1) Any person who—
- 5 (a) cultivates any prohibited plant;
- (b) supplies or otherwise deals in any prohibited plant;
- (c) has in his possession any prohibited plant;
- 10 (d) being the occupier, owner or lessee of any premises, permits those premises to be used for the purpose of the cultivation or supply of, or the dealing in, any prohibited plant; or
- (e) is concerned in the management of any premises referred to in paragraph (d),
- 15 shall be guilty of an offence against this Division.
- (2) It is a sufficient defence to a prosecution of a person for an offence arising under subsection (1) if—
- 20 (a) he requests the court to take into account the defence available to him under this subsection; and
- 25 (b) he adduces evidence which satisfies the court that, having regard to all of the circumstances, including his conduct, in which the act constituting the offence was done or preparatory to the doing of that act, he did not know or suspect and could not reasonably be expected to have known or suspected that the prohibited plant was a
- 30 prohibited plant.

Offences
with
respect to
prohibited
plants.

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

5 (3) Where a defendant makes a request referred to in subsection (2) (a), evidence of any previous conviction of the defendant for any offence, being evidence which may tend to rebut the evidence referred to in subsection (2) (b), may be adduced by the prosecutor.

10 (4) Any prohibited plant in the order or disposition of any person shall be deemed to be in his possession.

33B. (1) In this section, "Director-General" means the Director-General of Agriculture.

Destruction
of prohibited
plants by
Director-
General of
Agriculture.

15 (2) Upon information on oath by a member of the police force that he suspects or believes that any prohibited plants are on any premises, a stipendiary magistrate may, upon reasonable ground being shown in that information for the member of the police force so suspecting or believing, issue a
20 warrant authorising the Director-General to exercise his powers under subsection (3) with respect to those premises.

25 (3) After the issue of any such warrant, the Director-General may himself or by any persons authorised by him enter any premises specified in the warrant and take such steps as he thinks necessary for the purpose of destroying any prohibited plants on those premises and preventing any regrowth of those plants and may subsequently from time to time
30 again enter those premises and take steps for those purposes until he is satisfied that the prohibited plants have been completely destroyed and their regrowth effectively prevented.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

5 (4) The power conferred on the Director-General by subsection (3) extends not only in respect of prohibited plants on any premises specified in any such warrant but also in respect of any other plants on those premises the destruction of which cannot, in the opinion of the Director-General, be avoided in his exercise of that power.

10 (5) The Director-General or any other person is not liable in respect of any thing done bona fide in the exercise of the power conferred by subsection (3).

15 (6) Any costs or expenses incurred by the Director-General in the exercise of the power conferred by subsection (3) may be recovered by him, in any court of competent jurisdiction, as a debt from any person convicted of an offence arising under section 33A (1) in relation to the premises in respect of which the Director-General exercised that power.

25 33c. (1) Every person guilty of an offence against Penalties. this Division shall in respect of each offence be liable to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 2 years, or to both such fine and imprisonment.

30 (2) If any person attempts to commit an offence against this Division, or solicits or incites another person to commit such an offence, he shall, without prejudice to any other liability, be liable to the same punishment as if he had committed an offence against this Division.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

5 (3) Any term of imprisonment imposed on any person by a court of summary jurisdiction in respect of the non-payment of a fine for an offence against this Division may be ordered to commence at the expiration of any term of imprisonment imposed on that person for the same offence in addition to the fine.

10 (8) (a) Section 43 (1) (a)—

After “prohibited drug”, insert “or prohibited plant”.

(b) Section 43 (1) (a)—

15 After “drug” where secondly occurring insert “or any premises on which there are any prohibited plants”.

(c) Section 43 (1) (c)—

After “drug”, insert “or of any prohibited plants”.

20 (d) Section 43 (1) (d), (e)—

Omit “or drug” wherever occurring, insert instead “, drug or plant”.

(e) Section 43 (2) (a), (b), (3) (a)—

25 Omit “or any prohibited drug” wherever occurring, insert instead “, any prohibited drug or any prohibited plant”.

(f) Section 43 (2) (a)—

After “premises”, insert “or any prohibited plant is on any premises”.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

- (g) Section 43 (3), (4) (b)—
5 Omit “or drug” wherever occurring, insert instead
 “ , drug or plant”.
- (h) Section 43 (3A)—
 After section 43 (3), insert :—
 (3A) The power conferred by subsection (1)
10 (e) or (2) to seize any substance, drug or plant
 includes a power to remove it from the premises
 on which it was seized.
- (9) (a) Section 45A (1) (b)—
 Omit “section; and”, insert instead “section;”.
- (b) Section 45A (1) (c)—
15 Omit “subsection (1) of section 32.”, insert
 instead “section 32 (1); and”.
- (c) Section 45A (1) (d)—
 After section 45A (1) (c), insert :—
 (d) any offence arising under section 33A.
- 20 (d) Section 45A (3), (3A)—
 Omit section 45A (3), insert instead :—
 (3) A person convicted on indictment of an
 offence to which this section applies shall be
 liable—
- 25 (a) except as provided in paragraph (b),
 to a fine not exceeding \$50,000 or to
 imprisonment for a term not exceeding
 15 years, or to both such fine and
 imprisonment; or

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

- 5 (b) where the offence relates only to Indian hemp in leaf form, to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or to both such fine and imprisonment.

(3A) The reference in subsection (3) (b) to Indian hemp in leaf form is a reference to—

- 10 (a) Indian hemp which does not contain more than 3 per centum by weight, determined in the prescribed manner, of tetrahydrocannabinol; or
- 15 (b) a prohibited plant of the genus Cannabis.

SCHEDULE 2.

Sec. 4.

AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION.

- (1) (a) Section 3 (2)—
- 20 Omit “as amended by subsequent Acts,”.
- (b) Section 3 (3)—
- Omit “Poisons Act, 1952–1965,”, insert instead
“Poisons Act, 1952,”.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

- 5 (2) (a) Section 4 (1), definition of “Dentist”—
Omit “, as amended by subsequent Acts”.
- (b) Section 4 (1), definition of “Label”—
Omit “addiction; and “labelled” has a corresponding interpretation.”, insert instead “addiction.”.
- 10 (c) Section 4 (1), definition of “Pharmacist”—
Omit “, as amended by subsequent Acts”.
- (d) Section 4 (1), definition of “Pharmacy trainee”—
(i) Omit “paragraph (c) of subsection (1)”, insert instead “subsection (1) (c)”.
- 15 (ii) Omit “paragraph (d) of section 15,”, insert instead “section 15 (d)”.
- (iii) Omit “paragraph (a) of section 16”, insert instead “section 16 (a)”.
- (e) Section 4 (1), definition of “Veterinary surgeon”—
20 Omit “, as amended by subsequent Acts”.
- (3) (a) Section 5 (1) (a)—
Omit “, as amended by subsequent Acts”.
- (b) Section 5 (1) (b)—
Omit “, as amended by subsequent Acts”.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

(4) (a) Section 6 (3)—

5 Omit “paragraph (a) of subsection (2)”, insert
instead “subsection (2) (a)”.

(b) Section 6 (4)—

Omit “paragraph (b) of subsection (2)”, insert
instead “subsection (2) (b)”.

10 (c) Section 6 (9)—

Omit “subparagraph (v) of paragraph (g) of
subsection (2),”, insert instead “subsection (2)
(g) (v),”.

(d) Section 6 (10) (c)—

15 Omit “, as amended by subsequent Acts”.

(e) Section 6 (13)—

Omit “as amended by subsequent Acts,”.

(5) Section 12 (1)—

20 Omit “subsection (2) of section 11.”, insert instead
“section 11 (2).”.

(6) Section 13 (1)—

Omit “subsection (2) of section 11.”, insert instead
“section 11 (2).”

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

(7) Section 14 (3)—

- 5 Omit “paragraph (a) of subsection (1)”, insert
 instead “subsection (1) (a)”.

(8) Section 16 (1) (c)—

 Omit “paragraph (b) of subsection (1) of section
 19;”, insert instead “section 19 (1) (b);”.

10 (9) Section 18—

- (i) Omit “eight hundred dollars,”, insert instead
 “\$800.”.
 (ii) Omit “twenty dollars”, insert instead “\$20”.

(10) Section 18A (1)—

- 15 Omit “two thousand dollars”, insert instead “\$2,000”.

(11) (a) Section 19 (1)—

 Omit “Paragraph (b) of subsection (1) of
 section 9”, insert instead “Section 9 (1) (b)”.

(b) Section 19 (1A)—

- 20 Omit “paragraph (b) of subsection (1)”, insert
 instead “subsection (1) (b)”.

(c) Section 19 (1B)—

 Omit “paragraph (b) of subsection (1),”, insert
 instead “subsection (1) (b),”.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

(d) Section 19 (2)—

- 5 Omit "Subsection (1) of section 16", insert
 instead "Section 16 (1)".

(12) (a) Section 24 (3) (a)—

Omit ", as amended by subsequent Acts".

(b) Section 24 (3) (b)—

- 10 Omit "as amended by subsequent Acts,".

(13) (a) Section 26 (1)—

Omit "two thousand dollars or to imprisonment
with or without hard labour", insert instead
"\$2,000 or to imprisonment".

15 (b) Section 26 (3)—

Omit "one hundred dollars,", insert instead
"\$100,".

(14) Section 30 (4)—

- 20 Omit "subsection (2) of section 29", insert instead
 "section 29 (2)".

(15) Section 33 (1)—

Omit "two thousand dollars or to imprisonment with
or without hard labour", insert instead "\$2,000 or to
imprisonment".

Poisons (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

(16) Section 36 (2)—

- 5 (i) Omit “two hundred dollars”, insert instead
 “\$200”.
- (ii) Omit “twenty dollars”, insert instead “\$20”.

(17) Section 44—

Omit “two hundred dollars”, insert instead “\$200”.

10 (18) (a) Section 45A (1) (a)—

Omit “subsection (1) of section 21”, insert
instead “section 21 (1)”.

(b) Section 45A (1) (b)—

- 15 Omit “subsection (2A) of that section”, insert
 instead “section 21 (2A)”.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977

POISONS (FURTHER AMENDMENT) ACT, 1977

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 110, 1977.

An Act to amend the Poisons Act, 1966, so as to prohibit the cultivation of certain plants capable of being used for the purpose of producing drugs of addiction or prohibited drugs; to authorise the Director-General of Agriculture to destroy any such plants in certain circumstances; to increase the penalties for certain offences relating to drugs of addiction and prohibited drugs; and for other purposes. [Assented to, 29th November, 1977.]

BE

Poisons (Further Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title. **1.** This Act may be cited as the "Poisons (Further Amendment) Act, 1977".

**Commence-
ment.** **2.** This Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Schedules. **3.** This Act contains the following Schedules :—

**SCHEDULE 1.—AMENDMENTS TO THE POISONS ACT,
1966.**

**SCHEDULE 2.—AMENDMENTS TO THE POISONS ACT,
1966, BY WAY OF STATUTE LAW REVISION.**

**Amend-
ment of
Act No.
31,1966.** **4.** The Poisons Act, 1966, is amended in the manner set forth in Schedules 1 and 2.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1.

Sec. 4.

AMENDMENTS TO THE POISONS ACT, 1966.

(1) (a) Section 2, matter relating to Part IV—

From the matter omit “AND PROHIBITED DRUGS—ss. 20–33”, insert instead “, PROHIBITED DRUGS AND PROHIBITED PLANTS—ss. 21–33C”

(b) Section 2, matter relating to Part IV, Division 1—
Omit “20”, insert instead “21”.

(c) Section 2, matter relating to Part IV, Division 3—
After the matter, insert :—

DIVISION 4.—*Prohibited Plants*—ss. 33A–33C.

(2) (a) Section 4 (1), definition of “Cultivate”—

After the definition of “Container”, insert :—

“Cultivate”, in relation to a prohibited plant, includes grow, sow or scatter the seed produced by, plant, nurture, tend or harvest that prohibited plant.

(b) Section 4 (1), definition of “Indian hemp”—

After the definition of “Drug of addiction” insert :—

“Indian hemp” means—

- (a) any plant or part of a plant of the genus *Cannabis*;

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE POISONS ACT, 1966—continued.**

(b) the resin, whether crude or purified, or any other extract obtained from any plant or part of a plant of the genus *Cannabis*; or

(c) any preparation containing any such resin or extract,

by whatever name that plant, part, resin, extract or preparation may be called, and includes the achene or seed of any such plant but does not include any fibre of any such plant or part from which the resin has been extracted or a prohibited plant of the genus *Cannabis*.

(c) Section 4 (1), definitions of “Opium” and “Owner”—

After the definition of “License”, insert :—

“Opium” means the coagulated juice obtained from the capsules of the opium poppy (*Papaver somniferum*).

“Owner”, in relation to any premises, includes the person entitled to receive the rent of the premises and the person to whom the rent of the premises is paid.

(d) Section 4 (1), definitions of “Premises” and “Prepared opium”—

After the definition of “Poisons List”, insert :—

“Premises” includes land or ship, aeroplane or other vehicle or vessel.

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

“Prepared opium” means any preparation of opium in a form capable of being used for the purpose of smoking, and includes dross and any other residues remaining after opium has been smoked.

(e) Section 4 (1), definition of “Prohibited plant”—

After the definition of “Prohibited drug”, insert :—

“Prohibited plant” means—

- (a) any growing plant of the genus *Cannabis* or *Erythroxylon* or of the species *Papaver somniferum* or *Papaver orientale*, also known as *Papaver bracteatum*; and
- (b) any growing plant of a description specified in a proclamation in force under subsection (3),

but does not include any growing plant, referred to in paragraph (a), of a description prescribed for the purpose of this definition.

(f) Section 4 (1), definition of “Smoking”—

After the definition of “Sell”, insert :—

“Smoking” includes inhaling fumes produced by heating or burning any substance.

Poisons (Further Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE POISONS ACT, 1966—continued.****(g) Section 4 (1), definition of “Substance”—**

After “any substance”, insert “but does not include any prohibited plant”.

(h) Section 4 (3), (4)—

After section 4 (2), insert :—

(3) For the purposes of paragraph (b) of the definition of “Prohibited plant” in subsection (1), the Minister may, by proclamation published in the Gazette, declare any description of any plant that in his opinion is capable of being used for the purpose of producing a drug of addiction or a prohibited drug to be a prohibited plant.

(4) The Minister may, in like manner, repeal, alter or amend any proclamation made under subsection (3).

(3) Section 5 (2)—

Omit “or drugs of addiction”, insert instead “, drugs of addiction, prohibited drugs or prohibited plants”.

(4) Part IV, heading—

Omit “AND PROHIBITED DRUGS”, insert instead “, PROHIBITED DRUGS AND PROHIBITED PLANTS”.

Poisons (Further Amendment).

SCHEDULE 1—continued.

AMENDMENTS TO THE POISONS ACT, 1966—continued.

(5) Section 20—

Omit the section.

(6) Section 21 (1A), (1B), (1C)—

After section 21 (1), insert :—

(1A) Subsection (1) does not apply in respect of the supply or possession by any person of Indian hemp in accordance with an authority granted under subsection (1B).

(1B) The Minister may grant to—

(a) any person who he is satisfied is engaged or intends to engage in scientific research or study an authority to have in his possession Indian hemp; or

(b) any person an authority to supply Indian hemp, or to have Indian hemp in his possession for the purpose of supply, to a person referred to in paragraph (a).

(1C) An authority under subsection (1B) may be granted subject to such conditions as the Minister thinks fit and may be revoked at any time by notice served on the person to whom it was granted or, if the Minister thinks fit, by notice published in the Gazette.

(7) Part IV, Division 4—

After section 33, insert :—

DIVISION 4.—Prohibited Plants.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE POISONS ACT, 1966—continued.**

Offences
with
respect to
prohibited
plants.

33A. (1) Any person who—

- (a) cultivates any prohibited plant;
- (b) supplies or otherwise deals in any prohibited plant;
- (c) has in his possession any prohibited plant;
- (d) being the occupier, owner or lessee of any premises, permits those premises to be used for the purpose of the cultivation or supply of, or the dealing in, any prohibited plant; or
- (e) is concerned in the management of any premises referred to in paragraph (d),

shall be guilty of an offence against this Division.

(2) It is a sufficient defence to a prosecution of a person for an offence arising under subsection (1) if—

- (a) he requests the court to take into account the defence available to him under this subsection; and
- (b) he adduces evidence which satisfies the court that, having regard to all of the circumstances, including his conduct, in which the act constituting the offence was done or preparatory to the doing of that act, he did not know or suspect and could not reasonably be expected to have known or suspected that the prohibited plant was a prohibited plant.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—continued.

AMENDMENTS TO THE POISONS ACT, 1966—continued.

(3) Where a defendant makes a request referred to in subsection (2) (a), evidence of any previous conviction of the defendant for any offence, being evidence which may tend to rebut the evidence referred to in subsection (2) (b), may be adduced by the prosecutor.

(4) Any prohibited plant in the order or disposition of any person shall be deemed to be in his possession.

33B. (1) In this section, "Director-General" means the Director-General of Agriculture.

Destruction
of prohibited
plants by
Director-
General of
Agriculture.

(2) Upon information on oath by a member of the police force that he suspects or believes that any prohibited plants are on any premises, a stipendiary magistrate may, upon reasonable ground being shown in that information for the member of the police force so suspecting or believing, issue a warrant authorising the Director-General to exercise his powers under subsection (3) with respect to those premises.

(3) After the issue of any such warrant, the Director-General may himself or by any persons authorised by him enter any premises specified in the warrant and take such steps as he thinks necessary for the purpose of destroying any prohibited plants on those premises and preventing any regrowth of those plants and may subsequently from time to time again enter those premises and take steps for those purposes until he is satisfied that the prohibited plants have been completely destroyed and their regrowth effectively prevented.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE POISONS ACT, 1966—continued.**

(4) The power conferred on the Director-General by subsection (3) extends not only in respect of prohibited plants on any premises specified in any such warrant but also in respect of any other plants on those premises the destruction of which cannot, in the opinion of the Director-General, be avoided in his exercise of that power.

(5) The Director-General or any other person is not liable in respect of any thing done bona fide in the exercise of the power conferred by subsection (3).

(6) Any costs or expenses incurred by the Director-General in the exercise of the power conferred by subsection (3) may be recovered by him, in any court of competent jurisdiction, as a debt from any person convicted of an offence arising under section 33A (1) in relation to the premises in respect of which the Director-General exercised that power.

Penalties.

33C. (1) Every person guilty of an offence against this Division shall in respect of each offence be liable to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 2 years, or to both such fine and imprisonment.

(2) If any person attempts to commit an offence against this Division, or solicits or incites another person to commit such an offence, he shall, without prejudice to any other liability, be liable to the same punishment as if he had committed an offence against this Division.

Poisons (Further Amendment).

SCHEDULE 1—continued.

AMENDMENTS TO THE POISONS ACT, 1966—continued.

(3) Any term of imprisonment imposed on any person by a court of summary jurisdiction in respect of the non-payment of a fine for an offence against this Division may be ordered to commence at the expiration of any term of imprisonment imposed on that person for the same offence in addition to the fine.

(8) (a) Section 43 (1) (a)—

After “prohibited drug”, insert “or prohibited plant”.

(b) Section 43 (1) (a)—

After “drug” where secondly occurring insert “or any premises on which there are any prohibited plants”.

(c) Section 43 (1) (c)—

After “drug”, insert “or of any prohibited plants”.

(d) Section 43 (1) (d), (e)—

Omit “or drug” wherever occurring, insert instead “, drug or plant”.

(e) Section 43 (2) (a), (b), (3) (a)—

Omit “or any prohibited drug” wherever occurring, insert instead “, any prohibited drug or any prohibited plant”.

(f) Section 43 (2) (a)—

After “premises”, insert “or any prohibited plant is on any premises”.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE POISONS ACT, 1966—continued.**

(g) Section 43 (3), (4) (b)—

Omit “or drug” wherever occurring, insert instead
“, drug or plant”.

(h) Section 43 (3A)—

After section 43 (3), insert :—

(3A) The power conferred by subsection (1) (e) or (2) to seize any substance, drug or plant includes a power to remove it from the premises on which it was seized.

(9) (a) Section 45A (1) (b)—

Omit “section; and”, insert instead “section;”.

(b) Section 45A (1) (c)—

Omit “subsection (1) of section 32.”, insert instead “section 32 (1); and”.

(c) Section 45A (1) (d)—

After section 45A (1) (c), insert :—

(d) any offence arising under section 33A.

(d) Section 45A (3), (3A)—

Omit section 45A (3), insert instead :—

(3) A person convicted on indictment of an offence to which this section applies shall be liable—

(a) except as provided in paragraph (b), to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 15 years, or to both such fine and imprisonment; or

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

- (b) where the offence relates only to Indian hemp in leaf form, to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or to both such fine and imprisonment.

(3A) The reference in subsection (3) (b) to Indian hemp in leaf form is a reference to—

- (a) Indian hemp which does not contain more than 3 per centum by weight, determined in the prescribed manner, of tetrahydrocannabinol; or
- (b) a prohibited plant of the genus *Cannabis*.

SCHEDULE 2.

Sec. 4.

**AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION.**

- (1) (a) Section 3 (2)—

Omit “as amended by subsequent Acts,”.

- (b) Section 3 (3)—

Omit “Poisons Act, 1952–1965,”, insert instead
“Poisons Act, 1952,”.

Poisons (Further Amendment).

SCHEDULE 2—continued.

**AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—continued.****(2) (a) Section 4 (1), definition of “Dentist”—**

Omit “, as amended by subsequent Acts”.

(b) Section 4 (1), definition of “Label”—

Omit “addiction; and “labelled” has a corresponding interpretation.”, insert instead “addiction.”.

(c) Section 4 (1), definition of “Pharmacist”—

Omit “, as amended by subsequent Acts”.

(d) Section 4 (1), definition of “Pharmacy trainee”—

(i) Omit “paragraph (c) of subsection (1)”, insert instead “subsection (1) (c)”.

(ii) Omit “paragraph (d) of section 15,”, insert instead “section 15 (d),”.

(iii) Omit “paragraph (a) of section 16”, insert instead “section 16 (a)”.

(e) Section 4 (1), definition of “Veterinary surgeon”—

Omit “, as amended by subsequent Acts”.

(3) (a) Section 5 (1) (a)—

Omit “, as amended by subsequent Acts”.

(b) Section 5 (1) (b)—

Omit “, as amended by subsequent Acts”.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

(4) (a) Section 6 (3)—

Omit “paragraph (a) of subsection (2)”, insert instead “subsection (2) (a)”.

(b) Section 6 (4)—

Omit “paragraph (b) of subsection (2)”, insert instead “subsection (2) (b)”.

(c) Section 6 (9)—

Omit “subparagraph (v) of paragraph (g) of subsection (2).”, insert instead “subsection (2) (g) (v).”.

(d) Section 6 (10) (c)—

Omit “, as amended by subsequent Acts”.

(e) Section 6 (13)—

Omit “as amended by subsequent Acts.”.

(5) Section 12 (1)—

Omit “subsection (2) of section 11.”, insert instead “section 11 (2).”.

(6) Section 13 (1)—

Omit “subsection (2) of section 11.”, insert instead “section 11 (2).”

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

(7) Section 14 (3)—

Omit “paragraph (a) of subsection (1)”, insert instead “subsection (1) (a)”.

(8) Section 16 (1) (c)—

Omit “paragraph (b) of subsection (1) of section 19;”, insert instead “section 19 (1) (b);”.

(9) Section 18—

(i) Omit “eight hundred dollars,”, insert instead “\$800,”.

(ii) Omit “twenty dollars”, insert instead “\$20”.

(10) Section 18A (1)—

Omit “two thousand dollars”, insert instead “\$2,000”.

(11) (a) Section 19 (1)—

Omit “Paragraph (b) of subsection (1) of section 9”, insert instead “Section 9 (1) (b)”.

(b) Section 19 (1A)—

Omit “paragraph (b) of subsection (1)”, insert instead “subsection (1) (b)”.

(c) Section 19 (1B)—

Omit “paragraph (b) of subsection (1),”, insert instead “subsection (1) (b),”.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

- (d) Section 19 (2)—
Omit “Subsection (1) of section 16”, insert
instead “Section 16 (1)”.
- (12) (a) Section 24 (3) (a)—
Omit “, as amended by subsequent Acts”.
- (b) Section 24 (3) (b)—
Omit “as amended by subsequent Acts,”.
- (13) (a) Section 26 (1)—
Omit “two thousand dollars or to imprisonment
with or without hard labour”, insert instead
“\$2,000 or to imprisonment”.
- (b) Section 26 (3)—
Omit “one hundred dollars,”, insert instead
“\$100,”.
- (14) Section 30 (4)—
Omit “subsection (2) of section 29”, insert instead
“section 29 (2)”.
- (15) Section 33 (1)—
Omit “two thousand dollars or to imprisonment with
or without hard labour”, insert instead “\$2,000 or to
imprisonment”.

Poisons (Further Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

(16) Section 36 (2)—

(i) Omit “two hundred dollars”, insert instead
“\$200”.

(ii) Omit “twenty dollars”, insert instead “\$20”.

(17) Section 44—

Omit “two hundred dollars”, insert instead “\$200”.

(18) (a) Section 45A (1) (a)—

Omit “subsection (1) of section 21”, insert
instead “section 21 (1)”.

(b) Section 45A (1) (b)—

Omit “subsection (2A) of that section”, insert
instead “section 21 (2A)”.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

R. E. WARD,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 25 October, 1977.*

New South Wales



ANNO VICESIMO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 110, 1977.

An Act to amend the Poisons Act, 1966, so as to prohibit the cultivation of certain plants capable of being used for the purpose of producing drugs of addiction or prohibited drugs; to authorise the Director-General of Agriculture to destroy any such plants in certain circumstances; to increase the penalties for certain offences relating to drugs of addiction and prohibited drugs; and for other purposes. [Assented to, 29th November, 1977.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

T. J. CAHILL,
Chairman of Committees of the Legislative Assembly.

Poisons (Further Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title. **1.** This Act may be cited as the "Poisons (Further Amendment) Act, 1977".

Commence-
ment. **2.** This Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Schedules. **3.** This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE POISONS ACT, 1966.

SCHEDULE 2.—AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF STATUTE LAW REVISION.

Amend-
ment of
Act No.
31,1966. **4.** The Poisons Act, 1966, is amended in the manner set forth in Schedules 1 and 2.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1.

Sec. 4.

AMENDMENTS TO THE POISONS ACT, 1966.

(1) (a) Section 2, matter relating to Part IV—

From the matter omit “AND PROHIBITED DRUGS
—ss. 20–33”, insert instead “, PROHIBITED
DRUGS AND PROHIBITED PLANTS—ss. 21–33C”

(b) Section 2, matter relating to Part IV, Division 1—
Omit “20”, insert instead “21”.

(c) Section 2, matter relating to Part IV, Division 3—
After the matter, insert :—

DIVISION 4.—*Prohibited Plants*—ss. 33A–33C.

(2) (a) Section 4 (1), definition of “Cultivate”—

After the definition of “Container”, insert :—

“Cultivate”, in relation to a prohibited plant,
includes grow, sow or scatter the seed
produced by, plant, nurture, tend or
harvest that prohibited plant.

(b) Section 4 (1), definition of “Indian hemp”—

After the definition of “Drug of addiction”
insert :—

“Indian hemp” means—

- (a) any plant or part of a plant of the
genus *Cannabis*;

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

- (b) the resin, whether crude or purified, or any other extract obtained from any plant or part of a plant of the genus *Cannabis*; or
 - (c) any preparation containing any such resin or extract,
by whatever name that plant, part, resin, extract or preparation may be called, and includes the achene or seed of any such plant but does not include any fibre of any such plant or part from which the resin has been extracted or a prohibited plant of the genus *Cannabis*.
- (c) Section 4 (1), definitions of “Opium” and “Owner”—

After the definition of “License”, insert :—

“Opium” means the coagulated juice obtained from the capsules of the opium poppy (*Papaver somniferum*).

“Owner”, in relation to any premises, includes the person entitled to receive the rent of the premises and the person to whom the rent of the premises is paid.

- (d) Section 4 (1), definitions of “Premises” and “Prepared opium”—

After the definition of “Poisons List”, insert :—

“Premises” includes land or ship, aeroplane or other vehicle or vessel.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

“Prepared opium” means any preparation of opium in a form capable of being used for the purpose of smoking, and includes dross and any other residues remaining after opium has been smoked.

(e) Section 4 (1), definition of “Prohibited plant”—

After the definition of “Prohibited drug”, insert :—

“Prohibited plant” means—

- (a) any growing plant of the genus Cannabis or Erythroxylon or of the species Papaver somniferum or Papaver orientale, also known as Papaver bracteatum; and
- (b) any growing plant of a description specified in a proclamation in force under subsection (3),

but does not include any growing plant, referred to in paragraph (a), of a description prescribed for the purpose of this definition.

(f) Section 4 (1), definition of “Smoking”—

After the definition of “Sell”, insert :—

“Smoking” includes inhaling fumes produced by heating or burning any substance.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE POISONS ACT, 1966—continued.****(g) Section 4 (1), definition of “Substance”—**

After “any substance”, insert “but does not include any prohibited plant”.

(h) Section 4 (3), (4)—

After section 4 (2), insert :—

(3) For the purposes of paragraph (b) of the definition of “Prohibited plant” in subsection (1), the Minister may, by proclamation published in the Gazette, declare any description of any plant that in his opinion is capable of being used for the purpose of producing a drug of addiction or a prohibited drug to be a prohibited plant.

(4) The Minister may, in like manner, repeal, alter or amend any proclamation made under subsection (3).

(3) Section 5 (2)—

Omit “or drugs of addiction”, insert instead “, drugs of addiction, prohibited drugs or prohibited plants”.

(4) Part IV, heading—

Omit “AND PROHIBITED DRUGS”, insert instead “, PROHIBITED DRUGS AND PROHIBITED PLANTS”.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

(5) Section 20—

Omit the section.

(6) Section 21 (1A), (1B), (1C)—

After section 21 (1), insert :—

(1A) Subsection (1) does not apply in respect of the supply or possession by any person of Indian hemp in accordance with an authority granted under subsection (1B).

(1B) The Minister may grant to—

(a) any person who he is satisfied is engaged or intends to engage in scientific research or study an authority to have in his possession Indian hemp; or

(b) any person an authority to supply Indian hemp, or to have Indian hemp in his possession for the purpose of supply, to a person referred to in paragraph (a).

(1C) An authority under subsection (1B) may be granted subject to such conditions as the Minister thinks fit and may be revoked at any time by notice served on the person to whom it was granted or, if the Minister thinks fit, by notice published in the Gazette.

(7) Part IV, Division 4—

After section 33, insert :—

DIVISION 4.—*Prohibited Plants.*

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE POISONS ACT, 1966—continued.**

Offences
with
respect to
prohibited
plants.

33A. (1) Any person who—

- (a) cultivates any prohibited plant;
- (b) supplies or otherwise deals in any prohibited plant;
- (c) has in his possession any prohibited plant;
- (d) being the occupier, owner or lessee of any premises, permits those premises to be used for the purpose of the cultivation or supply of, or the dealing in, any prohibited plant; or
- (e) is concerned in the management of any premises referred to in paragraph (d),

shall be guilty of an offence against this Division.

(2) It is a sufficient defence to a prosecution of a person for an offence arising under subsection (1) if—

- (a) he requests the court to take into account the defence available to him under this subsection; and
- (b) he adduces evidence which satisfies the court that, having regard to all of the circumstances, including his conduct, in which the act constituting the offence was done or preparatory to the doing of that act, he did not know or suspect and could not reasonably be expected to have known or suspected that the prohibited plant was a prohibited plant.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—continued.

AMENDMENTS TO THE POISONS ACT, 1966—continued.

(3) Where a defendant makes a request referred to in subsection (2) (a), evidence of any previous conviction of the defendant for any offence, being evidence which may tend to rebut the evidence referred to in subsection (2) (b), may be adduced by the prosecutor.

(4) Any prohibited plant in the order or disposition of any person shall be deemed to be in his possession.

33B. (1) In this section, "Director-General" means the Director-General of Agriculture.

Destruction of prohibited plants by Director-General of Agriculture.

(2) Upon information on oath by a member of the police force that he suspects or believes that any prohibited plants are on any premises, a stipendiary magistrate may, upon reasonable ground being shown in that information for the member of the police force so suspecting or believing, issue a warrant authorising the Director-General to exercise his powers under subsection (3) with respect to those premises.

(3) After the issue of any such warrant, the Director-General may himself or by any persons authorised by him enter any premises specified in the warrant and take such steps as he thinks necessary for the purpose of destroying any prohibited plants on those premises and preventing any regrowth of those plants and may subsequently from time to time again enter those premises and take steps for those purposes until he is satisfied that the prohibited plants have been completely destroyed and their regrowth effectively prevented.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE POISONS ACT, 1966—continued.**

(4) The power conferred on the Director-General by subsection (3) extends not only in respect of prohibited plants on any premises specified in any such warrant but also in respect of any other plants on those premises the destruction of which cannot, in the opinion of the Director-General, be avoided in his exercise of that power.

(5) The Director-General or any other person is not liable in respect of any thing done bona fide in the exercise of the power conferred by subsection (3).

(6) Any costs or expenses incurred by the Director-General in the exercise of the power conferred by subsection (3) may be recovered by him, in any court of competent jurisdiction, as a debt from any person convicted of an offence arising under section 33A (1) in relation to the premises in respect of which the Director-General exercised that power.

Penalties.

33C. (1) Every person guilty of an offence against this Division shall in respect of each offence be liable to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 2 years, or to both such fine and imprisonment.

(2) If any person attempts to commit an offence against this Division, or solicits or incites another person to commit such an offence, he shall, without prejudice to any other liability, be liable to the same punishment as if he had committed an offence against this Division.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—continued.

AMENDMENTS TO THE POISONS ACT, 1966—continued.

(3) Any term of imprisonment imposed on any person by a court of summary jurisdiction in respect of the non-payment of a fine for an offence against this Division may be ordered to commence at the expiration of any term of imprisonment imposed on that person for the same offence in addition to the fine.

(8) (a) Section 43 (1) (a)—

After “prohibited drug”, insert “or prohibited plant”.

(b) Section 43 (1) (a)—

After “drug” where secondly occurring insert “or any premises on which there are any prohibited plants”.

(c) Section 43 (1) (c)—

After “drug”, insert “or of any prohibited plants”.

(d) Section 43 (1) (d), (e)—

Omit “or drug” wherever occurring, insert instead “, drug or plant”.

(e) Section 43 (2) (a), (b), (3) (a)—

Omit “or any prohibited drug” wherever occurring, insert instead “, any prohibited drug or any prohibited plant”.

(f) Section 43 (2) (a)—

After “premises”, insert “or any prohibited plant is on any premises”.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE POISONS ACT, 1966—continued.****(g) Section 43 (3), (4) (b)—**

Omit “or drug” wherever occurring, insert instead
“, drug or plant”.

(h) Section 43 (3A)—

After section 43 (3), insert :—

(3A) The power conferred by subsection (1) (e) or (2) to seize any substance, drug or plant includes a power to remove it from the premises on which it was seized.

(9) (a) Section 45A (1) (b)—

Omit “section; and”, insert instead “section;”.

(b) Section 45A (1) (c)—

Omit “subsection (1) of section 32.”, insert instead “section 32 (1); and”.

(c) Section 45A (1) (d)—

After section 45A (1) (c), insert :—

(d) any offence arising under section 33A.

(d) Section 45A (3), (3A)—

Omit section 45A (3), insert instead :—

(3) A person convicted on indictment of an offence to which this section applies shall be liable—

(a) except as provided in paragraph (b), to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 15 years, or to both such fine and imprisonment; or

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966—*continued.*

- (b) where the offence relates only to Indian hemp in leaf form, to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or to both such fine and imprisonment.

(3A) The reference in subsection (3) (b) to Indian hemp in leaf form is a reference to—

- (a) Indian hemp which does not contain more than 3 per centum by weight, determined in the prescribed manner, of tetrahydrocannabinol; or
- (b) a prohibited plant of the genus *Cannabis*.

SCHEDULE 2.

Sec. 4.

**AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION.**

(1) (a) Section 3 (2)—

Omit “as amended by subsequent Acts,”.

(b) Section 3 (3)—

Omit “Poisons Act, 1952–1965,”, insert instead
“Poisons Act, 1952,”.

SCHEDULE

Poisons (Further Amendment).

*SCHEDULE 2—continued.*AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

- (2) (a) Section 4 (1), definition of "Dentist"—
Omit "as amended by subsequent Acts".
- (b) Section 4 (1), definition of "Label"—
Omit "addiction; and "labelled" has a corresponding interpretation.", insert instead "addiction."
- (c) Section 4 (1), definition of "Pharmacist"—
Omit "as amended by subsequent Acts".
- (d) Section 4 (1), definition of "Pharmacy trainee"—
- (i) Omit "paragraph (c) of subsection (1)", insert instead "subsection (1) (c)".
 - (ii) Omit "paragraph (d) of section 15", insert instead "section 15 (d)".
 - (iii) Omit "paragraph (a) of section 16", insert instead "section 16 (a)".
- (e) Section 4 (1), definition of "Veterinary surgeon"—
Omit "as amended by subsequent Acts".
- (3) (a) Section 5 (1) (a)—
Omit "as amended by subsequent Acts".
- (b) Section 5 (1) (b)—
Omit "as amended by subsequent Acts".

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

(4) (a) Section 6 (3)—

Omit “paragraph (a) of subsection (2)”, insert
instead “subsection (2) (a)”.

(b) Section 6 (4)—

Omit “paragraph (b) of subsection (2)”, insert
instead “subsection (2) (b)”.

(c) Section 6 (9)—

Omit “subparagraph (v) of paragraph (g) of
subsection (2).”, insert instead “subsection (2)
(g) (v).”.

(d) Section 6 (10) (c)—

Omit “, as amended by subsequent Acts”.

(e) Section 6 (13)—

Omit “as amended by subsequent Acts.”.

(5) Section 12 (1)—

Omit “subsection (2) of section 11.”, insert instead
“section 11 (2).”.

(6) Section 13 (1)—

Omit “subsection (2) of section 11.”, insert instead
“section 11 (2).”

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

(7) Section 14 (3)—

Omit “paragraph (a) of subsection (1)”, insert instead “subsection (1) (a)”.

(8) Section 16 (1) (c)—

Omit “paragraph (b) of subsection (1) of section 19;”, insert instead “section 19 (1) (b);”.

(9) Section 18—

(i) Omit “eight hundred dollars”, insert instead “\$800,”.

(ii) Omit “twenty dollars”, insert instead “\$20”.

(10) Section 18A (1)—

Omit “two thousand dollars”, insert instead “\$2,000”.

(11) (a) Section 19 (1)—

Omit “Paragraph (b) of subsection (1) of section 9”, insert instead “Section 9 (1) (b)”.

(b) Section 19 (1A)—

Omit “paragraph (b) of subsection (1)”, insert instead “subsection (1) (b)”.

(c) Section 19 (1B)—

Omit “paragraph (b) of subsection (1),”, insert instead “subsection (1) (b),”.

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

- (d) Section 19 (2)—
Omit "Subsection (1) of section 16", insert
instead "Section 16 (1)".
- (12) (a) Section 24 (3) (a)—
Omit ", as amended by subsequent Acts".
- (b) Section 24 (3) (b)—
Omit "as amended by subsequent Acts,".
- (13) (a) Section 26 (1)—
Omit "two thousand dollars or to imprisonment
with or without hard labour", insert instead
"\$2,000 or to imprisonment".
- (b) Section 26 (3)—
Omit "one hundred dollars," insert instead
"\$100,".
- (14) Section 30 (4)—
Omit "subsection (2) of section 29", insert instead
"section 29 (2)".
- (15) Section 33 (1)—
Omit "two thousand dollars or to imprisonment with
or without hard labour", insert instead "\$2,000 or to
imprisonment".

SCHEDULE

Poisons (Further Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE POISONS ACT, 1966, BY WAY OF
STATUTE LAW REVISION—*continued.*

(16) Section 36 (2)—

(i) Omit “two hundred dollars”, insert instead
“\$200”.

(ii) Omit “twenty dollars”, insert instead “\$20”.

(17) Section 44—

Omit “two hundred dollars”, insert instead “\$200”.

(18) (a) Section 45A (1) (a)—

Omit “subsection (1) of section 21”, insert
instead “section 21 (1)”.

(b) Section 45A (1) (b)—

Omit “subsection (2A) of that section”, insert
instead “section 21 (2A)”.

*In the name and on behalf of Her Majesty I assent to this
Act.*

A. R. CUTLER,
Governor.
Government House,
Sydney, 29th November, 1977.